

DIRECTORS' DUTIES AND LIABILITY

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The management body in the Proposal of Regulation

- POWERS
- GENERAL DUTIES
- LIABILITY

POWERS

- **SHAREHOLDERS DETERMINE ORGANISATION**
 - No regulation of directors' remuneration
- **SHAREHOLDERS vs. DIRECTORS**
 - distribution of powers in the Proposal
 - doubts about the interference of shareholders in management

GENERAL DUTIES

- CARE, SKILL AND DILIGENCE
- LOYALTY
 - Duties owed to the company: no direct actions for individual shareholders and creditors
- DUTY TO AVOID CONFLICTS OF INTERESTS
 - Wide terms of the proposal
 - Authorisation of conflicts

LIABILITY

- PROPOSAL:
 - Art. 31.4: “A director of the SPE shall be liable to the company for any act or omission in breach of his duties deriving from this Regulation, the articles of association of the SPE or a resolution of shareholders which causes loss or damage to the SPE. Where such breach has been committed by more than one director, all directors concerned shall be jointly and severally liable.”
 - Art. 31.5: “Without prejudice to the provisions of this Regulation, the liability of directors shall be governed by the applicable national law”

- **PARLIAMENT AMENDMENTS**
 - 1. Clarifies the type of liability (amendment 51)
 - 2. Compensation to creditors for undue distributions (amendment 52)
 - 3. Right of action against directors: 4 years (amendment 53)
- **NO OTHER LIABILITIES:**
 - No liability for not promoting dissolution in case of important losses
 - No liability for not promoting an insolvency proceeding